## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UN	IITED STATES OF AMERICA,	)
	Plaintiff,	) Case Number 8:11CR84 )
	vs.	) DETENTION ORDER )
RA	FAEL ROSALES-MARTINEZ,	) )
	Defendant.	, )
A.		hearing pursuant to 18 U.S.C. 3142(f) of the bove-named defendant detained pursuant to
B.	conditions will reasonably assure required.  X By clear and convincing evidence	tion because it finds: nce that no condition or combination of the appearance of the defendant as
C.	that which was contained in the Pretrial  X (1) Nature and circumstances of  X (a) The crime: Illegal Alie violation of 8 U.S.C. 1 maximum penalty of 2  (b) The offense is a crime (c) The offense involves a	n Found in the U.S. After Removal in 326(a) is a serious crime and carries a years imprisonment.
	(a) General Factors: The defendar may affect wh The defendar X The defendar	against the defendant is high. cs of the defendant including:  Int appears to have a mental condition which mether the defendant will appear. Int has no family ties in the area. Int has no steady employment. Int has no substantial financial resources.

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		The defendant is not a long time resident of the
		community.  X The defendant does not have any significant community
		ties.
		Past conduct of the defendant:
		The defendant has a history relating to drug abuse. The defendant has a history relating to alcohol abuse. The defendant has a significant prior criminal record. The defendant has a prior record of failure to appear at court proceedings.  (b) At the time of the current arrest, the defendant was on: Probation Parole
		Supervised Release
		Release pending trial, sentence, appeal or completion of sentence.
		(c) Other Factors:  X The defendant is an illegal alien and is subject to
		deportation The defendant is a legal alien and will be subject to
		deportation if convicted.
		<ul> <li>X The Bureau of Immigration and Customs Enforcement (BICE) has placed a detainer with the U.S. Marshal.</li> <li>Other:</li> </ul>
X (4) The nature and seriousness of the danger posed by the d release are as follows:		y , ,
		Use of Aliases
		Prior Deportation (2009) (2010)
	(5)	Rebuttable Presumptions
	( )	In determining that the defendant should be detained, the Court also
		relied on the following rebuttable presumption(s) contained in 18 U.S.C.
		§ 3142(e) which the Court finds the defendant has not rebutted:
	-	<ul> <li>(a) That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the</li> </ul>
		safety of any other person and the community because the Court
		finds that the crime involves:
		(1) A crime of violence; or
		(2) An offense for which the maximum penalty is life imprisonment or death; or
		(3) A controlled substance violation which has a maximum penalty of 10 years or more; or

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	(4) A felony after the defendant had been convicted of two or more prior offenses described in (1) through (3) above, and the defendant has a prior conviction for one of the crimes mentioned in (1) through (3) above which is less than five years old and which was committed while the defendant was on pretrial release.
(b)	That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because the Court finds that there is probable cause to believe:  (1) That the defendant has committed a controlled substance violation which has a maximum penalty of 10 years or more.  (2) That the defendant has committed an offense under 18 U.S.C. § 924(c) (uses or carries a firearm during

## D. Additional Directives

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

 The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal; and

dangerous weapon or device).

- 2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
- 3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: March 28, 2011.

BY THE COURT:

and in relation to any crime of violence, including a crime of violence, which provides for an enhanced punishment if committed by the use of a deadly or

s/ F. A. Gossett United States Magistrate Judge